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June 20, 1997

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: ACSI's Petition for Declaratory Ruling Regarding
Preemption of the Arkansas Telecommunications
Regulatory Reform Act of 1997- cc Docket No. 97-100

Dear Mr. Caton:

You received a letter dated June 13, 1997 in the above-captioned docket from the Arkansas Public Service Commission ("APSC"). In that letter, the APSC accuses me of having provided the Federal Communications Commission ("Commission") with "inaccurate and misleading" information concerning an "analysis" of the bill that ultimately became the Arkansas Telecommunications Regulatory Reform Act of 1997 ("Arkansas Act"). Specifically, the APSC states that I was "fully aware that the analysis reflects the official position of the APSC" but that I nonetheless "attacked the integrity and origins of the document contrary to facts and circumstances" known to me.

These are serious allegations that I feel compelled to rebut. Contrary to the APSC's representations, I never understood that this "analysis" represented the official position of the APSC, and I would certainly never intentionally mislead the Commission.

As an Arkansas State Senator and sponsor of Senate Bill 54, I became deeply involved in the legislative process surrounding the passage of the Arkansas Act in January of this year. (Contrary to the suggestion in the APSC's letter, I was not familiar with a similar "analysis" that had been presented by the APSC to the General Assembly last year. During 1996, telecommunications reform was not my focus; although I was an ex-officio member of the Insurance and Commerce Committee. In 1996, I served on at least 10 other committees, 2 as

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co-chair, while also practicing law as a solo practitioner.) I first became aware that an "analysis" critical of Senate Bill 54 had been prepared when I spoke to a newspaper reporter on Thursday, January 23, 1997. I talked to Commissioner Sam Bratton the next day (Friday) and asked him to provide me with a copy of this "analysis" to which the reporter had referred. He agreed to do so and sent me a facsimile. The copy I received is identical to the document attached to AT&T's comments in this docket. It neither had a formal heading nor indicated the author's name - there was nothing on its face to indicate that it was an official document. I had assumed at this point that the document had been prepared by someone in the office of the APSC's staff. I do not recall Commissioner Bratton's informing me that this document represented the official position of the APSC.

I read the "analysis" over the weekend. On Monday, January 27, 1997, during an interview with a reporter from the Arkansas Democrat-Gazette, I indicated that I had reviewed the "analysis" and that I disagreed with its conclusions. At no point did I inform the reporter that I believed this "analysis" to represent the official position of the APSC itself. I had always assumed that the "analysis" represented only the views of one or more members of the APSC's staff. On January 29, a public hearing was held in the House committee to consider the bill. The APSC apparently neither requested to present its views at that hearing nor submitted its "analysis" as part of the legislative record.

Finally, nothing in what the APSC had done since the passage of the Arkansas Act had suggested to me that the "analysis" represented its official position on the relationship between the Arkansas Act and federal law. To my knowledge, the APSC had conducted its affairs in conformance with the Arkansas Act, never stating that it saw any conflict between the Arkansas Act and federal requirements. Furthermore, the APSC's decision not to participate in this proceeding further supported my belief that the APSC had no official position on the preemption issues presented in ACSI's petition for declaratory relief. Indeed, as I understand it, the APSC still takes no position on these issues.

Sincerely,


George Hopkins
Attorney at Law

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cc: Reed Hundt, Chairman, FCC
Susan Ness, Commissioner, FCC
Rachell Chong, Commissioner, FCC
James Quello, Commissioner, FCC
Tom Boasberg, Legal Advisor to Chairman Hundt
Jim Casserly, Legal Advisor to Commissioner Ness
Dan Gonzalez, Legal Advisor to Commissioner Chong
Paul Gallant, Legal Advisor to Commissioner Quello
Richard Welch, Chief, Policy and Programming Division
Richard Metzger, Deputy Chief, Common Carrier Bureau
Alex Starr, FCC
Melissa Newman, FCC
Arkansas Public Service Commission
All parties of record